

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

CHRISTOPHER WEBB,

Plaintiff,

v.

**UNION PACIFIC RAILROAD
COMPANY,**

Defendant.

Case No. 2:19-cv-04075-MDH

ORDER

Before the Court is Defendant Union Pacific Railroad's ("UPRR") request to take a trial preservation deposition of Dr. John Charbonneau, after discovery has closed. (UPRR's Letter to the Court on 08/11/2020) in Colorado on September 3, 2020. Plaintiff has refused this request. Dr. Charbonneau was previously deposed by Plaintiff as a 30(b)(6) witness. Dr. Charbonneau, an independent contractor for UPRR, is unavailable to testify at trial due to a previously planned vacation and because he is outside the court's subpoena power, as he lives in Colorado. After discussion with the parties (*See* Doc. 68), and in consideration of the statutory and discretionary factors regarding the Court's ability to grant leave to a party for the purpose of deposing a witness after discovery has closed, (*see, e.g., Velasquez v. McElwain Sprayers*, 2010 WL 1526533, fn. 3 (W.D.Mo. Mar. 12, 2010); *see also Jurek v. Rapiscan Sec. Prods.*, Civ. No. 05-2764, 2007 U.S. Dist. LEXIS 108299, *3 (D. Min. Nov. 2, 2017)), the Court hereby **ORDERS** that UPRR's request to depose Dr. Charbonneau is granted. The deposition may be taken as proposed by UPRR or at any other time and place agreed upon by the parties. Plaintiff's counsel may at their option appear remotely.

IT IS SO ORDERED.

Dated: August 14, 2020

/s/ Douglas Harpool
DOUGLAS HARPOOL
United States District Judge